



Appendix D
Division of Specialized Education
Monitoring & Compliance Unit
Nonpublic Monitoring Supplement

Legislation passed by the District of Columbia (District) Council in 2006, known as the Placement of Students with Disabilities in Nonpublic Schools Act (PSDNSA), established a Certificate of Approval (COA) process for nonpublic special education schools serving District students with disabilities. Additionally, as the State Education Agency (SEA) for the District, OSSE monitors Local Education Agencies (LEAs) to ensure compliance with the requirements of federal and District law for students enrolled in each LEA and attending a nonpublic school.

All nonpublic special education schools must receive a COA from OSSE prior to accepting any referral or placement of a District student with a disability or ward of the District with an Individualized Education Program (IEP) funded by the District government. Certain exceptions exist, including when a student is placed at an uncertified school by an Order of a Court of Law or a Due Process Hearing Officer Decision. In no case shall a COA at any level be awarded unless the school can demonstrate to the satisfaction of OSSE that the health and safety of students is protected and that the school is able to implement the provisions of each student's IEP.

OSSE is committed to ensuring that students educated in nonpublic settings are placed in the least restrictive environment; are receiving proper positive behavior supports; and are receiving appropriate services, including specialized instruction and transition services. Pursuant to 5 DCMR §A-2837.1 and 2837.3, OSSE shall schedule periodic monitoring visits to each nonpublic special education school or program at least once during the validity of each COA, to verify compliance with this chapter, federal, and local law. Prior to a scheduled monitoring visit, a nonpublic special education school or program shall inform all parents of enrolled District of Columbia students that a scheduled monitoring visit shall occur. OSSE shall issue the nonpublic special education school or program a monitoring report at least once in every period of validity for a COA, to include any findings of noncompliance with D.C. Official Code §38-2561 and this chapter.

Nonpublic schools are responsible for maintaining compliance with all COA requirements and working collaboratively with the student's LEA to ensure that the student is receiving a free appropriate public education in the least restrictive environment. Ultimately however, the LEA responsible for a student's placement in a nonpublic school is responsible for ensuring that the Individuals with Disabilities Education Act (IDEA) is being implemented for each student placed in the nonpublic school. Therefore, should noncompliance with IDEA regulations be identified during the on-site visit, the responsible LEA will receive notice of the findings of noncompliance



and be accountable for working collaboratively with the nonpublic school to correct the noncompliance as soon as possible, but in no case later than one year from the identification of noncompliance.

The on-site visit will mirror that of the LEA compliance monitoring visit described in this manual.

Step 1: Identification of Nonpublic Schools for On-site Compliance Monitoring

Nonpublic schools will be selected for an on-site compliance monitoring visit based on the date of the last on-site visit, issuance of a COA, and the number and/or the nature of complaints received regarding the nonpublic school.

Step 2: Notification of On-site Compliance Monitoring Selection

Nonpublic school Chief Executive Officers and LEA directors will be notified by letter and electronic mail of the scheduled monitoring visit. The letter will include the:

- Date of the monitoring visit;
- Suggested date for the pre-site conference call or pre-site visit;
- Purpose of the visit and planned activities; and
- Documents and information required for the pre-site and on-site monitoring visits.

Nonpublic schools are expected to plan as soon as possible for the on-site monitoring visit. For example, as soon as possible after notification of the visit, nonpublic schools should plan for the accommodations and time needed for staff, family and student interviews and for OSSE record reviews. Likewise, LEAs should begin collecting documents requested prior to the pre-site collaboration.

Step 3: Pre-site Conference Call or Pre-site Visit

The pre-site conference call or pre-site visit is an opportunity for the nonpublic school and OSSE staffs to discuss the purpose of the on-site visit confer about the agenda for the on-site visit and agree on logistics. It is also an occasion for the nonpublic school to ask any questions regarding the visit and for the nonpublic school to provide OSSE with documents needed prior to the visit. The pre-site meeting will typically take place via telephone however OSSE may choose to conduct the pre-site meeting on-site if resources allow. At a minimum, documents that should be available for the pre-site visit include:

- School schedule;
- A list of all current employees with their titles and qualifications;
- Completed OSSE Student Roster Form of District students;
- Attendance records for the current school year of District students;
- Documentation that all District students in tested grades participate in the DC-CAS or DC-CAS ALT;
- Policies and procedures regarding behavior including positive behavior supports and emergency behavioral interventions including seclusion and restraint with physical restraint being defined as the use of bodily force to limit a student's freedom of movement;

- All discipline incident reports for District students for the current school year, including any involving seclusion or restraint with physical restraint being defined as the use of bodily force to limit a student's freedom of movement; and
- Written plan regarding post-high school transition services and planning for students 16 and older.

The standard pre-site visit agenda is located at Appendix H.

Step 4: On-site Compliance Monitoring Visit and Activities

Following its notification letter to each selected nonpublic school and the subsequent pre-site visits, OSSE will conduct an on-site visit. If a nonpublic school has more than one campus or site, OSSE may conduct its on-site visit at multiple locations. Regardless of the number of locations OSSE chooses to visit, only one monitoring report will be issued to the nonpublic school.

OSSE will examine student files in the office prior to the on-site through SEDS. Items that will be assessed during the record reviews are outlined in the student compliance monitoring tool and align with the monitoring standards.

The number of selected files will be based on the number of District students with IEPs who attend the nonpublic school. However, OSSE may choose to review additional files if multiple LEAs have students placed at the nonpublic school, or for any other reason.

Total Number of Students with IEPs	Number of Files Reviewed
Less than 40	10
40 – 99	20
100 – 149	30
150 or more	40

Based on the review of other state systems and consultation with national technical assistance providers, OSSE has identified selection criteria to ensure that a wide range of compliance items are examined. If possible, OSSE will select files with a diversity of values for the following criteria:

- Grade level
- Disability category
- Attending campus

A copy of the nonpublic monitoring tool follows this supplement is in Appendix G.

During the on-site visit, OSSE will engage in the following activities:

- **Staff Interviews:** As a part of the site visit, OSSE will conduct individual interviews with

the Chief Executive Officer or Executive Director of the nonpublic school, the school principal (if different), and the director of special education (if different), teachers (special education and general education), related service providers, behavior management/crisis staff, decided aids, and teachers assistants. Other staff members may be interviewed at OSSE's discretion.

- ***Student and Family Interviews:*** OSSE may choose to interview students with IEPs, and/or their families, to better understand compliance and performance in the nonpublic. The nonpublic will be informed in advance of the names of any students and/or families selected by OSSE for an interview. In either case, the nonpublic is responsible for coordinating the interviews with students and/or their families. If OSSE selects students who are involved in the Child and Family Services Administration system, incarcerated, in the custody of the Department of Youth Rehabilitation Services and/or receive services through the Department of Mental Health or other District agencies, OSSE will take steps to coordinate its interviews with those agencies.
- ***Classroom Observations/School Tour:*** OSSE will tour the nonpublic school and/or observe classrooms or programs within the nonpublic school. The purpose of the tour/observations is to ensure the safety of District students placed in the nonpublic school and to verify information provided by the nonpublic school regarding the behavior management and academic instruction of District students.

Step 5: Desk Review

Following the on-site visit, OSSE will conduct a desk review of additional information available regarding the nonpublic school. Information reviewed may include, but is not limited to, data in SEDS, student attendance records, Encounter Tracking Forms submitted to the District of Columbia Public Schools (DCPS) Medicaid Recovery Unit for the purposes of Medicaid recoupment for school-based Health Related Services, Related Services Management Reports, other monitoring reports issued to the nonpublic school (e.g. reports from other agencies), the school's COA application, and/or the school's website.

Step 6: Letter of Findings and Monitoring Report

Within three months of the on-site visit, OSSE will notify the nonpublic school and the LEA responsible for the District student placed in the school of any findings of noncompliance identified during the on-site visit. The monitoring report will specifically outline student and school level noncompliance. The monitoring report will also delineate corrective actions necessary for the nonpublic school and/or the LEA to correctly implement the specific regulatory requirement. Monitoring reports are intended to promote the improvement of educational results and functional outcomes for students with disabilities through the identification of noncompliance.

For on-site visits occurring in fall 2012 or later, monitoring reports will be issued through the District of Columbia Corrective Action Tracking System (DC-CATS.) LEAs and nonpublic schools

will be required to document the completion of all corrective actions and provide this documentation to OSSE through DC-CATS.

For all identified noncompliance, the nonpublic school and/or the LEA must correct the noncompliance as soon as possible but in no case later than one year after the identification of the noncompliance. The date of the monitoring report serves as the date of the identification of the noncompliance.

Pursuant to OSEP Memo 09-02, OSSE must account for all instances of noncompliance. In determining the steps that the LEA must take to correct the noncompliance and document such correction, OSSE may consider a variety of factors. For any noncompliance concerning a child-specific requirement that is not subject to a specific timeline requirement, OSSE must also ensure that the LEA has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA. In addition, OSSE must ensure that each LEA has completed the required action (e.g. completed the evaluation although late). A copy of OSEP Memo 09-02 can be found in Appendix C.

Noncompliance is corrected when the nonpublic school and/or the LEA can demonstrate that it is correctly implementing the specific regulatory requirement for all District students with disabilities. The monitoring report will detail the required student level and LEA level corrective actions required to assist the nonpublic school and/or the LEA in correctly implementing the specific regulatory requirement. OSSE may also require the nonpublic school and/or the LEA to conduct a root cause analysis to determine the reasons for the identified noncompliance. The requirement to conduct a root cause analysis may be contained within the monitoring report cover letter or the Additional LEA Corrective Actions section of the report.

Step 7: Corrective Action Plans

Contained within the monitoring report, OSSE will provide a list of required student level and school level corrective actions for noncompliance identified through record reviews and certain interviews. The nonpublic school and/or the LEA may also be required to conduct a root cause analysis to determine the reasons for the identified noncompliance and submit a corrective action plan (CAP). Should the nonpublic school and/or the LEA be required to conduct a root cause analysis, OSSE will outline the required timeline within the monitoring report or corresponding communication.

Corrective actions, whether generated through the monitoring report or through a CAP resulting from the root cause analysis, may be relatively uncomplicated and non-time consuming (e.g. correcting a data error in SEDS) or may be multifaceted and involved (e.g. developing a policy and procedures for ensuring appropriate discipline processes). Regardless of the level of the noncompliance, the noncompliance must be corrected as soon as possible but in no case later than one year after the identification of the noncompliance.

Step 8: Verification of Correction of Noncompliance

After the nonpublic school and/or the LEA has certified correction of noncompliance, OSSE will verify the correction of noncompliance.

- To verify the correction of student level citations, OSSE will review the original student files to verify that the required action has been completed. Additionally, OSSE will select a sample of student files that were not originally reviewed or generate an updated report from SEDS to ensure that the nonpublic school and/or the LEA is correctly implementing the specific regulatory requirement.
- To verify nonpublic school and/or LEA level noncompliance, OSSE will review documents submitted by the nonpublic school and/or the LEA that evidence the completion of required corrective actions and will select a sample of student files that were not originally reviewed or generate a report from SEDS to verify correction of noncompliance. Correction of noncompliance will be complete when the nonpublic school and/or the LEA can demonstrate that it is correctly implementing the specific regulatory requirement.

Pursuant to OSEP Memo 09-02, OSSE must verify the correction of noncompliance within one year of the identification of the noncompliance; therefore, verification activities will occur before the conclusion of the one-year timeline.

Step 9: Closure of Findings of Noncompliance

After OSSE has verified the correction of the noncompliance, OSSE will inform the nonpublic school and the LEA in writing that the finding of noncompliance is closed. Nonpublic schools and LEAs should continue to conduct record review activities to identify any areas of need that may arise before future OSSE monitoring activities. Longstanding noncompliance extending beyond the one-year correction period will result in additional enforcement actions by OSSE and will affect the LEA's annual determination. Further, longstanding noncompliance may affect the status of the nonpublic school's COA. Likewise, the LEA's timely correction of noncompliance will also be considered in the LEA's annual determination.